

Appln. No. 10/011,015
Response Dated August 2, 2004
Reply to Office Action of June 15, 2004

REMARKS/ARGUMENTS

The Office Action of June 15, 2004, requires restriction to one of the following groups of inventions:

- I. Claims 1-22 and 38-57, drawn to a process of preparing an olefin using a catalyst; and
- II. Claims 23-37, drawn to a catalyst composition.

The Office Action indicates that the groups of invention are related as product and process of use. Further, the Office Action indicates that the two groups of claims are distinct because the product (Group II) can be used in a materially different process than claimed in the process (Group I), namely the purification of automotive exhaust gases.

The restriction requirement is only valid if the two groups of invention can be shown to be distinct from each other. However, the Office Action offers no proof of such distinction whatsoever. The specification states that the catalyst composition of Group II is useful for the process of Group I. There is no other materially different use specified in the application. All of the cited prior art references, which are the closest prior art known to Applicants relate to catalysts and processes for the production of mono-olefins and have no teaching of any usefulness with regard to other processes. Moreover, the Office Action cites no reference or even any hint of usefulness for other processes. Nothing in the stated reasons for distinctness shows that the currently claimed catalyst composition is useful for any materially different process, much less for a process for the purification of automotive exhaust gases. While the Office may be aware of similar catalysts which are useful in other processes, it is not sufficient to rely on uncited prior art for support for the requirement for restriction. It is well known that the catalyst art is specific to certain processes and what is well known to be useful in one process may have any number of reasons for being nonfunctional in another process.

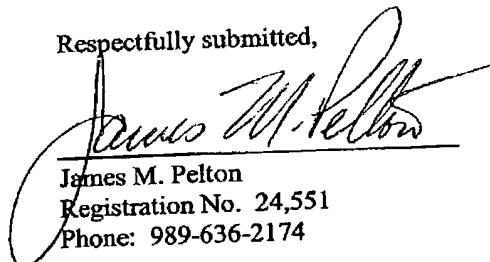
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In view of the lack of any showing of usefulness in a materially different process by the catalyst composition in the claimed invention, in the prior art cited in the specification, or in the requirement for restriction itself, Applicants believe that the requirement fails to even suggest distinctness between the product and process, much less provide any basis to prove such distinctness. The fact that the groups of claims are in different classes and subclasses is insufficient as a basis for the allegation of distinctness when close prior art does not support such an allegation.

Therefore, the requirement for restriction has not shown the necessary distinctness required for restriction and the requirement should be withdrawn and the claims in both groups should be examined in the same application.

In order to be complete in this response, Applicants provisionally elect the claims of Group I the process of this invention.

Respectfully submitted,



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